

REMARKS

Claims 1-3 and 5-8 are pending in the application. Claim 1 has been cancelled by this amendment. New claims 9 and 10 have been added to the application. Therefore, claims 2, 3, and 5-10 are at issue.

Claims 2 and 3 have been amended to recite a method and now depend from claim 5. Claim 5 has been amended in a manner suggested by the examiner. For the reasons set forth below, it is submitted that claims 2, 3, and 5-8 are now in a condition for allowance.

Claims 5-8 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In particular, the examiner contends that the preamble to claim 5 is indefinite with respect to claiming a method or a composition. The examiner graciously proposed alternative wording to overcome this rejection under 35 U.S.C. §112, second paragraph, and applicant has amended claim 5 as suggested by the examiner. In view of this amendment, it is submitted that claims 5-8 fully comply with 35 U.S.C. §112, second paragraph, and that the rejection should be withdrawn.

Claims 1-3 stand rejected under 35 U.S.C. §102(e) as being obvious over Graham U.S. Patent No. 6,075,028 ('028). In view of the amendments to the claims, it is submitted that this rejection has been overcome and should be withdrawn.

Claim 1 has been cancelled and the rejection, therefore, is moot with respect to claim 1. Claims 2 and 3 have been amended to depend from claim 5 and, therefore, recite a method. Claims 2 and 3 recite preferred embodiments of the pharmaceutical agent recited in claim 5, and are patentable over the '028

reference for the same reasons claim 5 is patentable over the '028 reference. Claims 2 and 3 also comply with 35 U.S.C. §112, second paragraph, for the same reasons claim 5 complies with 35 U.S.C. §112, second paragraph.

In summary, the cancellation of claim 1 and the amendments to claims 2 and 3 render the rejection under 35 U.S.C. §102(e) over the '028 patent moot, and the rejection should be withdrawn.

New claims 9 and 10 recite nonlimiting examples of neuropathies treatable by the method of claim 5. Support for new claims 9 and 10 can be found in the English-language translation of the specification at page 1, lines 7-10. It is submitted that new claims 9 and 10 are patentable for the same reasons that claim 5 is patentable.

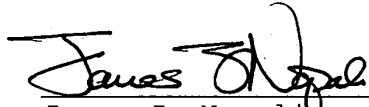
In summary, it is submitted that all pending claims are in a form and scope for allowance. An early and favorable action on the merits is respectfully requested.

Should the examiner wish to discuss the foregoing, or any matter of form in an effort to advance this application toward allowance, the examiner is urged to telephone the undersigned at the indicated number.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN LLP

By

A handwritten signature in black ink, appearing to read "James J. Napoli", is written over a horizontal line.

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